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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/209,706 12/11/98 TOKAS

E IR-2588 (ET)

EXAMINER

IM22/0521

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KNABLE, G

ART UNIT

PAPER NUMBER

1733

*12*

DATE MAILED:

05/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/209,706

Applicant(s)

TOKAS ET AL.

Examiner

Geoffrey L. Knable

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 53-83, 93, 94, 96 and 98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-83, 93, 94, 96 and 98 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

Art Unit: 1733

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 53, 54, 58, 59, 60-63, 65, 66-71, 75, 76 and 83 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the article of Weck et al. (cited by applicant) or the article of Bartz et al. (cited by applicant).

These articles are applied for the same reasons set forth in the last office action. Although applicant submitted a declaration under 37 CFR 1.131 to antedate these references, this declaration is insufficient as it is signed by less than all the inventors and there is no showing that less than all named inventors of the application invented the subject matter of the claims under rejection. See also MPEP 715.04.

3. Claims 53-55, 58-63, 66 and 71-82 rejected under 35 U.S.C. 102(b) as being anticipated by EP 424,833 to BF Goodrich as applied in the last office action.
4. Claims 67-71, 83, 96 and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 424,833 to BF Goodrich as applied in the last office action.
5. Claims 53-83, 93, 94, 96 and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO97/38036 to Ciba Specialty Chemicals taken in view of EP 424,833 and optionally the articles of Weck et al. (cited by applicant) and Bartz et al. (cited by applicant) as applied in the last office action.
6. Applicant's arguments filed 1-11-2001 have been fully considered but they are not persuasive.

Art Unit: 1733

The deficiencies with respect to the 37 CFR 1.131 rejection have been treated above.

With respect to EP '833, applicant has argued that the term "coating" should be read as distinguishing the molded article formed in the reference. This argument has been carefully considered but is unpersuasive. In particular, as noted in the last office action, although the substrate in this reference is a reinforcement for the polymer, nothing in the present claims defines over this, it being considered that the substrate (e.g. a glass fiber mat) is clearly coated with the polymer material in the final article. Although the reference does apply the polymer material while the substrate is within a mold, it is again not considered to be unreasonable to consider that the substrate (e.g. a glass fiber mat) is coated in the final article. Note that simply defining a coating is not considered to in any way define or require any particular form or thickness of the material which coats or covers the substrate material. As such, it is again submitted that EP '833 discloses forming a coated substrate (e.g. glass fiber mat) material. The argument that the coating in the present invention is the outer coating on the substrate is noted but it is considered that the polymer material in EP '833 is also clearly an outer material.

As to claim 58 and 59, it is noted that step (b) is a **contacting** step, the reference to the "coating" merely seemingly further describing the particulars of the polymer material that contacts the substrate. EP '833 clearly contemplates contacting the substrate with the polymer material at ambient temperature - e.g. note page 10, line 4 or page 11, lines 1+, this material forming a coating. These claims are not considered to

Art Unit: 1733

require any more than this. As to claim 71, it is argued that the reference does not teach a catalyst that can initiate polymerization at room temperature. It should be stressed that claim 71 does **not** actually require that polymerization occur at room temperature but rather simply that the catalyst "can initiate polymerization at room temperature." Is it applicants position that none of the catalysts described in the reference "can initiate polymerization of the metathesizable material at room temperature" and thus the claims should be read to exclude these? If so, this should be more clearly stated for the record.

As to claim 55, it would still seem reasonable to term the molded coating material in the reference as larger in thickness than the substrate materials. As to claim 63, it is argued that in the present invention, the catalyst may be mixed in bulk with the substrate material and that the reference does not teach this. Claim 63 however has no such limitation. Claim 63 simply requires that the catalyst is a component of the substrate and as set forth in the last office action, when the catalyst is applied to the substrate, the catalyst can reasonably be considered to be then part of the substrate. Nothing in the present claims defines over this.

With respect to WO '036, it is argued that this reference suggests mixing the catalyst prior to application and thus does not preapply it to the substrate. This is not disputed but it is again considered that the teachings of EP '833 that the need for a separate mixing of the monomer with a catalyst stream (as well as a separate catalyst stream itself) can be obviated if the catalyst is first applied to the substrate surface would have rendered it obvious to apply the catalyst to the surface being coated rather

Art Unit: 1733

than in mixture with the polymer. Note also that the two cited articles seem to suggest similar application of the catalyst to the surface rather than in mixture with the monomer. It is also argued that EP '833 is directed to molding and that WO '036 teaches a process that is not suggested to be improved. While EP '833 is directed to molding processes, it more fundamentally is directed to known and desirable ways to effect a catalyzed metathesis polymerization. Note in particular that since WO '036 indicates that "monomers and catalysts are expediently mixed together only just before processing" (page 33, lines 15-16), the artisan practicing the WO '036 invention would be faced with essentially the same problem faced and solved by EP '833 - namely the prior requirement for a separate stream of catalyst and a step of mixing prior to application. Preapplication of the catalyst to the substrate would therefore have been obvious in light of the EP '833 teachings, the expected result motivating the artisan to do this being the ability to avoid the need for a separate stream of catalyst and for a mixing step.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

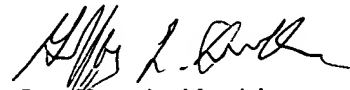
Art Unit: 1733

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 703-308-2062. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on 703-308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Geoffrey L. Knable  
Primary Examiner  
Art Unit 1733

G. Knable  
May 19, 2001